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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,318	01/04/2006	Jeremy Marshall	3003-1170	1342
<div>466                      7590                      07/18/2008</div> <div>YOUNG &amp; THOMPSON</div> <div>209 Madison Street</div> <div>Suite 500</div> <div>ALEXANDRIA, VA 22314</div>				
<div>EXAMINER</div> <div>ANDERSON, MICHAEL J</div>				
<div>ART UNIT                      PAPER NUMBER</div> <div>3767</div>				
<div>MAIL DATE                      DELIVERY MODE</div> <div>07/18/2008                      PAPER</div>				

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/563,318

**Applicant(s)**

MARSHALL ET AL.

**Examiner**

MICHAEL J. ANDERSON

**Art Unit**

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/02)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

In view of the Appeal Brief filed on 4/30/2006, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Haber (US 5,320,609).

With regard to claim 1 Haber discloses (figures 2 and 3) an injection device for causing a dose of liquid to be ejected from the needle (38, 40) at one end of a syringe (2, 38) located within a housing of the device, the syringe being movable by a plunger (4) upon release of an actuating bias member (174) at one end of the housing, to move the syringe, from a first position wherein the needle is shrouded by the housing (figure 2B), to a second position wherein the needle projects from the other end of the housing (figure 2A), the plunger having its free end positioned within the other end of a container (16) of the syringe and carrying a surrounding and gripping flexible O-ring (12, 112, column 4, line 57, column 7 line 17) which rests against an enlarged head of the other end of the syringe container (110), such that a primary movement of the plunger, under the bias of the actuating bias member, will transmit a frictional force to the O- ring with the result that the syringe container is moved by and with the O-ring linearly from said first to said second position (figures 2B and 2A), whereupon arresting of further movement of the syringe container results in the frictional grip between the plunger and the O-ring being overcome, thus enabling the plunger to move by a secondary movement relatively to the O-ring, into the syringe container, into contact with and to act upon a plug to compress the liquid within the syringe and cause expression of the liquid through the syringe needle (column 4, lines 55-57, column 6, line 62 to column 7, line 32).

With regard to claim 8 Haber discloses an injection device as claimed in claim 7, wherein a pressure maintaining bias member (106) is positioned between a head of the plunger and the O-ring to enable pressure to be maintained by the O-ring onto the head of the syringe container during the secondary movement of the plunger (column 4, lines 47-57).

With regard to claim 9 Haber discloses an injection device as claimed in claim 7, including a return bias member (106) acting between the syringe housing and the other end of the syringe container to hold the syringe retracted within the housing until the actuating bias (174) member is released.

With regard to claim 10 Haber discloses an injection device as claimed in claim 7, wherein one or more of the bias members provided within the housing is in the form of a coil spring (174, 106).

With regard to claim 11 Haber discloses an injection device as claimed in claim 8, including a return bias (106) acting between the syringe housing and the other end of the syringe container to hold the syringe retracted within the housing until the actuating bias member is released.

With regard to claim 13 Haber discloses an injection device as claimed in claim 8, wherein one or more of the bias members provided within the housing is in the form of a coil spring.

With regard to claim 13 Haber discloses an injection device as claimed in claim 9, wherein one or more of the bias members provided within the housing is in the form of a coil spring.

### ***Response to Amendment***

The present communication responds to the Amendment of 01/02/2008. By this communication, no claims were amended. The amendments did not add new matter. Claims 7-13 are pending. The rejection(s) are as stated.

### ***Response to Arguments***

Applicant's arguments, see pages 4-8, filed 4/30/2008, with respect to the rejection(s) of claim(s) 7-13 under 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Haber.

### ***Conclusion***

References considered pertinent to Applicants' disclosure are listed on form PTO-892. All references listed on form PTO-892 are cited in their entirety.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL J. ANDERSON whose telephone number is (571)272-2764. The examiner can normally be reached on M-F 6:30 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin C. Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael J Anderson/  
Examiner  
Art Unit 3767

MJA  
7/15/2008  
/Kevin C. Sirmons/  
Supervisory Patent Examiner, Art Unit 3767